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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,529	04/10/2001	Roger Tambay	32887-256195	8455

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EXAMINER

CHENCINSKI, SIEGFRIED E

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/829,529	Applicant(s) TAMBAY ET AL.	
	Examiner Siegfried E. Chencinski	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: On page 16, line 2, in the last sentence of [0041], a typo exists: "The user specifies may specify identification or other information". It appears that an unintended repetition exists.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 21-25 and 32-34 are rejected** because the claimed invention is directed to non-statutory subject matter. Claims **21-25 and 32-34** lack technological art because they are not directed to any one of the areas of patentable subject matter, such as product, process, process of making or composition.

For a claim to be statutory under 35 USC 101 the following two conditions must be met:

1) In the claim, the practical application of an algorithm or idea results in a useful, concrete, tangible result,

AND

2) The claim provides a limitation in the technological arts that enables a useful, concrete, tangible result.

The invention in the body of the claim must recite technology. If the invention in the body of the claim is not tied to technological art, environment, or machine, the claim is not statutory. Ex parte Bowman 61USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001) (Unpublished).

According to the above guidelines, Applicant's claims are limited to the manipulation of abstract ideas in the context of patentability.

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Applicant is advised to satisfy the statutory requirements for the claims. Applicant is also advised not to add any new matter to the specification or the claims.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-8, 21, 24 & 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (US Patent 5,862,223, hereafter Walker).

Re. Claims 1 & 21, Walker anticipates a system and process for conducting a liquid exchange in a discreet segment of a commodity goods market comprising:

- a plurality of market participants in said market segment (Col. 7, ll. 6-61);
- a computer network connected to said network access device (Col. 13, ll. 8-21);
- an electronic product trading center connected to said computer network (Col. 13, ll. 21-47); and
- a network access device accessible to said market Participants (computer (405, 505), modem (450, 550), Fig's 1, 5).

Re. Claims 4 & 24, Walker anticipates a system and process wherein the market participants comprise a purchaser and a seller (Col. 5, ll. 52-59; Col. 6, ll. 56-59).

Re. Claims 5 & 25, Walker anticipates a system and process wherein said plurality of market participants further comprises a service provider (Col. 6, ll. 59-64).

Re. Claims 6, Walker anticipates a system and process wherein said network access device comprises a computer. (Col. 16, ll. 1-12).

Re. Claim 7, Walker anticipates a system and process wherein said computer network comprises the world-wide web (Internet – Col. 13, ll. 8-20).

Re. Claim 8, Walker anticipates a multiplicity of systems and processes wherein said electronic product trading centers comprise a database (Col. 1, ll. 25-32); an executant connected to said database (Col. 14, ll. 14-65), and a user interface connected to said executant (inherent).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 10, 11, 12 & 13 are rejected under 35 U.S.C. 103(a) as being disclosed by Walker et al. (US Patent 5,862,223, hereafter Walker) in view of Official Notice.

Re. Claims 9, 10, 11, 12 & 13, Walker does not explicitly disclose a system and process wherein said database comprises:

- Cl. 9, a Microsoft.RTM SQLServer database. However, an ordinary practitioner of the art at the time of Applicant's invention would have been aware of the ready availability of the Microsoft.RTM SQLServer database.
- Cl. 10, a document repository.
- Cl. 11, a Microsoft.RTM. Index Server document repository.
- Cl. 12, wherein said executant comprises at least one of: a Microsoft.RTM. Active Server Pages (ASP) program; a java server pages (JSP) program; and a compiled program executing under the control of an object request brokering application.
- Cl. 13, wherein said user interface comprises a document created using a document markup language.

The examiner takes Official Notice that an ordinary practitioner of the art at the time of applicant's invention would have been aware that the following data processing products were available off the shelf:

- Cl. 9, a Microsoft.RTM SQLServer database.
- Cl. 10, a document repository.
- Cl. 11, a Microsoft.RTM Index Server document repository.

- Cl. 12, a Microsoft.RTM. Active Server Pages (ASP) program; a java server pages (JSP) program; and a compiled program executing under the control of an object request brokering application.
- Cl. 13, a user interface comprising a document created using a document markup language (Web page, XML or HTML document)..

It would have been obvious to the ordinary practitioner to modify the primary reference by including the above off-the-shelf Microsoft products in order to use an SQL server database, a document repository, an index server, an ASP program, a JSP program, a compiled program executing under the control of an object request brokering application and a user interface comprises a document created using a document markup language. Consequently, the practitioner would have combined the disclosure of Walker with well known information to install appropriate data processing capabilities for the electronic product trading center, motivated by a desire to facilitate transactions in additional commercial commodities (Walker, Col. 1, ll. 22-25).

5. Claims 2, 3, 19, 20, 22, 23, 31, 32 & 34 are rejected under 35 U.S.C. 103(a) as being disclosed by Walker in view of Official Notice and the New York Mercantile Exchange (The Wayback Machine, www.archive.org/www.nymewx.com/19990125_19981202_19990220, hereafter NYMEX).

Re. Claims 2, 3, 22 & 23, Walker does not explicitly disclose a system and process wherein said market segment comprises:

- a sub-segment of the commodity polymers segment of the plastics industry.
- at least one of L.D.P.E., L.L.D.P.E., H.D.P.E., P.P., P.S., A.B.S. and P.E.T..

However, polymers are commodities made from petrochemicals derived from the crude oil refining process, in other words polymers are petrochemical derivatives, and L.D.P.E., L.L.D.P.E., H.D.P.E., P.P., P.S., A.B.S. and P.E.T. are major sub-segments of the petrochemical line of products. NYMEX is one of the major global commodities exchanges which facilitates trading in various physical and chemical commodities, including at least two petrochemicals, namely heating oil and unleaded gasoline (pages

4 & 5 of 10). An ordinary practitioner would have been aware of the fact that petrochemicals, metals, agricultural chemicals, grains and other commodities were being traded nationally and globally for a long time, and that products are added to the product line of the NYMEX and other exchanges whenever conditions were sufficient to make a liquid market for them. Therefore, the ordinary practitioner at the time of Applicant's invention would have combined Walker's disclosure with well known information and the disclosures by the NYMEX to develop a liquid exchange in sub-segments of the polymers family of petrochemical commodities, motivated by a desire to facilitate transactions in additional commercial commodities (Walker, Col. 1, ll. 22-25).

Re. Claims 19 & 31, Walker does not explicitly disclose a system and process comprising ancillary services, said ancillary services comprising at least one of:

- a global logistics solutions support system;
- an electronic capacity exchange for product and capacity swaps;
- a professional development service;
- a financial service; and
- a comprehensive industry information service.

However, the NYMEX discloses the provision of comprehensive industry information services (pages 1-10 of 10). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to combine Walker's disclosure with well known information and the disclosures by the NYMEX to provide ancillary services such as comprehensive industry information services to the participants in a commodities market, motivated by a desire to facilitate transactions in additional commercial commodities (Walker, Col. 1, ll. 22-25).

Re. Claim 20, Walker does not explicitly disclose a system and process comprising a means to create a derivatives market accompanying said commodities market.

However, NYMEX conducts a derivatives market accompanying said commodities market (page 2 of 10; Futures and options are derivatives). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to combine Walker's disclosure with well known information and the disclosures by the

NYMEX to create a derivatives market to accompany a commodities market, motivated by a desire to facilitate transactions in additional commercial commodities (Walker, Col. 1, ll. 22-25).

Re. Claim 32, Walker does not explicitly disclose a system and process wherein a standard contract is a forward contract. However, the NYMEX facilitates the trading of forward contracts such as futures (pages 2-10 of 10). Therefore, it would have been obvious to the ordinary practitioner at the time of Applicant's invention to combine Walker's disclosure with well known information and the disclosures by the NYMEX to facilitate the trading of forward contracts in a commodities market, motivated by a desire to facilitate transactions in additional commercial commodities (Walker, Col. 1, ll. 22-25).

Re. Claim 34, Walker does not explicitly disclose a system and process wherein creating said derivatives market comprises creating a standard synthetic instrument. The creation and trading of synthetic instruments is facilitated by the NYMEX. An ordinary practitioner of the art at the time of Applicant's invention would have known that synthetic instruments include the combining of a put and a call on the same basic instrument, or trading in an index based instrument. The NYMEX facilitates trading in index futures (Financial Charts: Index Futures - page 3 of 10). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to combine Walker's disclosure with well known information and the disclosures by the NYMEX to facilitate trading in synthetic instruments in a commodities market, motivated by a desire to facilitate transactions in additional commercial commodities (Walker, Col. 1, ll. 22-25).

6. Claims 14-17 and 27-29 are rejected under 35 U.S.C. 103(a) as being disclosed by Walker in view of Official Notice and Fertik (US Pg Pub 2001/0032163 A1, hereafter Fertik).

Re. Claims 14 & 26, Walker does not explicitly disclose a system and process comprising an electronic private trading room. However, Fertik discloses an electronic private trading room (Page 1, [0020]-ll. 5-12; [0021]-ll. 1-7). Consequently, the ordinary practitioner of the art at the time of Applicant's invention would have combined the

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disclosure of Walker with well known information and the disclosure of Fertik to provide electronic private trading rooms for traders using the electronic product trading center, motivated by a desire to provide an automated and efficient transactions capability for commercial commodities trading (Fertik, Page 1, [0019], ll. 12-14).

Re. Claims 15 & 27, Walker does not explicitly disclose a system and process comprising an electronic exchange trading floor. However, applicant defined an electronic exchange trading floor as "an open forum where any buyer and seller can initiate and consummate a transaction for any product" (Specification, p. 10. ll. 4-5). Fertik discloses an electronic market place, "a virtual location, usually a web site or networked software product, that allows buyers and sellers to trade products as in sales transactions ([0011]). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosure of Walker with well known information and the disclosure of Fertik to provide an electronic exchange trading floor for traders using the electronic product trading center, motivated by a desire to provide an automated and efficient electronic transactions capability for commercial commodities trading (Fertik, Page 1, [0019], ll. 12-14).

Re. Claims 16, 17, 28 & 29, Walker does not explicitly disclose a system and process comprising

- an electronic store front.
- an electronic processor preference center.

However, Fertik discloses a computer network apparatus for supporting open market trading between buyers and sellers which has similar features to those defined by Applicant as the attributes of the claimed electronic store front and electronic processor preference center (Abstract, ll. 1-6). Fertik provides facilities for both sellers and buyers to provide their information to sell and/or buy specific goods. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosure of Walker with well known information and the disclosure of Fertik to provide an electronic store front and an electronic processor preference center

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for traders using the electronic product trading center, motivated by a desire to provide an automated and efficient transactions capability for commercial commodities trading (Fertik, Page 1, [0019], ll. 12-14).

7. Claims 18 and 30 are rejected under 35 U.S.C. 103(a) as being disclosed by Walker Hoffman).

Re. Claims 18 & 30, Walker does not explicitly disclose a system and process comprising:

- an electronic sample request and delivery center.
- receiving a request for a sample in an electronic sample request and delivery center (SRDC); in response to said request, processing said request; and at the conclusion of said processing, shipping said sample.

However, Hoffman discloses an electronic system for a buyer to request a sample, for the sample provider to receive the sample request, to give the sample requester sample availability information and sample information, processing the sample request, providing delivery timing information and effecting actual delivery ([0009]-ll. 1-4; Fig. 5). It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Walker with well known information and the disclosure of Hoffman to provide an electronic sample request and delivery center, motivated by the opportunity to make use of the internet for the purpose of efficiently and effectively broadening the opportunities for buyers and sellers to be connected for the purpose engaging in trading activities (Hoffman, [0003]-9-11).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Hyung S. Sough, can be reached on (571) 272-6799.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington D.C. 20231

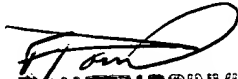
or (571)273-8300 [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above USPTO web site in Alexandria, VA.

SEC

September 22, 2005


PRANTZY PORWYL
PRIMARY EXAMINER
Au 3628